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TAGS: [ECON](#) [KPRV](#) [KCOR](#) [PGOV](#) [PREL](#) [YI](#)
SUBJECT: KOSOVO: CREATING GOOD GOVERNANCE OF PUBLICLY OWNED
ENTERPRISES IN TRANSITION TO KOSOVAR AUTHORITY

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PRISTINA 1055

Classified By: COM Tina Kaidanow for reasons 1.4 (B) and (D).

11. (C) Summary. The final status package proposal presented to Kosovo on February 2 provides UNMIK the opportunity to establish corporate governance and oversight structures for publicly-owned enterprises (POEs) as they transition to Kosovar authority. Several UNMIK agencies and some PISG officials have been lobbying for regulations in the KTA successor law that would provide clear governance and oversight requirements for POEs as part of the post-status transition to Kosovar authority. They, including the International Monetary Fund, do not believe that POEs should come under the direct authority of ministries in a post-status environment. UNMIK and some PISG officials want to establish an independent holding company for the POEs that would be under the authority of the Kosovo Assembly. According to UNMIK officials, the World Bank believes that the ministries should run the POEs to help make the ministers more accountable for these enterprises. The SRSG's position on this issue remains unclear. USOP believes that it would be prudent for UNMIK and the PISG to establish strong, independent corporate governance structures and proper oversight for the POEs as they transition to Kosovar authority, but full privatization post-status should be the ultimate goal to ensure their managerial and operational efficiency, lessen the costs to the Kosovo Consolidated Budget, and implement good public policy. End Summary.

FINAL STATUS PACKAGE PROPOSAL PROVIDES UNMIK THE OPPORTUNITY TO ADDRESS POST STATUS GOVERNANCE AND OVERSIGHT CONCERNS FOR POEs

12. (C) Article 1.2 in Annex Seven (Property and Archives) of the final status package proposal presented by UN Special Envoy Marti Ahtisaari to the PISG on February 2 requires competent Kosovo authorities to take appropriate measures to implement European Union principles of corporate governance and liberalization of POEs. This language was a welcome addition for several UNMIK agencies and PISG officials concerned about the governance and oversight of POEs. UNMIK's Office of Oversight for POEs (OPOE), The Kosovo Trust Agency (KTA) -- which is responsible for the administration and maintenance of publicly-owned enterprises (POEs)-- and some Provisional Institutions of Self-Government (PISG) officials have been lobbying for regulations in the KTA successor law that would provide clear governance and oversight requirements for public utilities as part of the

post-status transition period from UNMIK to Kosovar authority.

13. (C) Several UNMIK and PISG officials are concerned about ensuring good POE governance and do not want POEs under the direct authority of Kosovo government officials, noting concerns about corruption, nepotism, and mismanagement. These officials believe that establishing formal corporate government structures and rules for good governance will act as a deterrent against these concerns. According to Chiara Bronchi, Fiscal Affairs Director in UNMIK's Pillar IV (responsible for Kosovo's economic policy), the International Monetary Fund (IMF) also shares these concerns, and its resident representative for Kosovo has quietly discussed them with the Special Representative of the Secretary General (SRSG) Joachim Rucker.

UNMIK SUPPORTS HOLDING COMPANY CONCEPT AND GOOD GOVERNANCE STRUCTURES FOR POES...

14. (C) Officials in UNMIK's Office of Legal Affairs (OLA), OPOE, KTA, Pillar IV, and some PISG officials want to develop an independent holding company for POEs with corporate governing structures in accordance with international principles and standards for good governance. According to OPOE officials, the Kosovo Assembly would have ownership and oversight responsibilities for the POEs. The Kosovo Assembly would appoint a professional, competent board of directors to oversee the holding company. The board members of the holding company would then appoint professional, competent board members to the POE boards. Finally, the POE board members would appoint the management of the public utilities.

OPOE, OLA, Pillar IV and KTA officials believe that multiple layers of supervision would strengthen good governance and ensure accountability at each level. OPOE officials said the appointment of board members, who could be either Kosovars or

internationals, should be carried through in a structured, transparent process with clear, stringent selection and evaluation criteria, as well as an appropriate compensation package, thus avoiding favoritism, nepotism, conflicts of interest, and holding board members accountable for their actions. Bronchi said that Pillar IV and KTA have quietly formed a working group to develop language in the KTA successor law that would require POEs to be administered under an independent holding company.

...BUT SOME ARE PRESSING TO INCLUDE MANDATORY INTERNATIONAL OVERSIGHT AND OTHER OPTIONS

15. (C) OPOE officials and managing directors from the Kosovo Energy Corporation (KEK) and Post and Telecom of Kosovo (PTK) have argued that a mandatory international presence is needed for the independent holding company and POE boards. They believe that internationals would help ensure that the proper corporate governance and anti-corruption structures, board member evaluation and selection criteria, and accountability standards are clearly established to administer the public utilities. However, most PISG officials argue that an international presence is unnecessary. Other PISG officials want to put POE administration under full ministerial control with the proper corporate governance structures, but allow the Kosovo Assembly the authority to impose mandatory reporting requirements on ministers, as well as remove them with a two-thirds majority vote of no confidence if they perform poorly.

WORLD BANK: MINISTERS SHOULD RUN POES TO ENSURE RESPONSIBILITY AND ACCOUNTABILITY

16. (C) According to Bronchi and Alexander Borg-Olivier, Head of UNMIK OLA, the World Bank believes that POEs should be placed under ministerial authority to ensure that the ministers take full responsibility and accountability for them. The World Bank resident representative said the Bank will soon provide recommendations outlining its views on governance of POEs. Bronchi said Pillar IV and KTA are waiting for the recommendations, but added that they want to

negotiate with the Bank to get it to see things their way.

SRSG VIEWS ON THE HOLDING COMPANY REMAIN UNCLEAR

¶7. (C) The views of SRSG Joachim Rucker remain unclear. According to Bronchi and Olivier, Rucker was supportive of the independent holding company and planned to push for this concept at a November 17, 2006 meeting with the World Bank. However, when the World Bank advocated for the POEs to be under the control of the ministries, Rucker decided not to push the idea. Bronchi believes that Rucker still supports the independent holding agency concept and noted that PM Agim Ceku has quietly told the SRSG not to put POEs under the ministries. But she added that the SRSG wants to be on the same page with the international community.

PRIVATIZATION SHOULD BE THE ULTIMATE GOAL FOR POEs

¶8. (C) Full privatization of public utilities post-status is the best way to ensure their maximum managerial and operational efficiency, while lessening the costs to the Kosovo Consolidated Budget (KCB). An independent holding company is a good concept as long as there are sound, stringent corporate governance and oversight policies and structures in place. Post agrees that the POEs should not be put under the ministries due to concerns about corruption, political manipulation, mismanagement and the internationally-accepted public policy practice of separating the administration of utilities from public policy implementation.

¶9. (U) Full privatization of POEs, like PTK and Pristina International Airport, improve the potential of these companies to become viable, operationally efficient businesses (ref A). Full privatization would also help remove costly expenditures such as KEK from the budget and release funds for other public needs. The Ministry of Finance and Economy (MFE) estimates that KEK will continue to be a drain on the KCB. MFE projections estimate that KEK could need as much as 100 million euros for its operational and maintenance costs, as well as electricity imports in 2009-2010, accounting for 13-14 percent of the 2007 KCB of 717.5 million euros (ref B).

¶10. (C) Comment: There is a need for sound, stringent corporate governance and oversight structures for POEs as they transition to Kosovar authority. The concept of an independent holding company is a practical solution for this to occur, especially given Kosovo's easily manipulated political and economic climate. However, an independent holding company should be the first step in helping Kosovo fully privatize the POEs. USOP will work with the Kosovo government to take steps toward this end; USAID already has opened a dialogue and provided advisers for the purpose of advancing such a process. The reality of additional competencies and responsibilities after the resolution of final status, and the projected decrease in KCB revenues over the next few years (ref C), has started to attract the attention of senior-level PISG officials, who realize that serious policy decisions must be taken regarding POEs if they want to effectively govern Kosovo during and after the transition period. End Comment.

¶11. (SBU) USOP does not/not release this cable to UN Special Envoy Ahtisaari.
KAIDANOW